

I. INTRODUCTION

This Operating Plan between Kirstie Dunbar-Kari dba Kari & Sons ("Concessioner") and the National Park Service ("Service") acting by and through the Superintendent at Yosemite National Park ("Park") is an Exhibit to and a part of Concession Contract No. CC-YOSE003-08 ("Contract"). It describes specific operating responsibilities of the Concessioner and the Service with regard to those lands and facilities within El Portal Administrative Site ("Area"), adjacent to the Park and administered by the Service that are assigned to the Concessioner for the purposes authorized by the Contract.

In the event of any conflict between the terms of the Contract and this Operating Plan, the terms of the Contract, including its designations and amendments, shall prevail.

This Operating Plan will be reviewed annually by the Superintendent of Yosemite National Park in consultation with the Concessioner and revised as determined necessary by the Superintendent.

Any revisions shall be consistent with the main body of the Contract. Any revisions must be reasonable and in furtherance of the purposes of the Contract. This plan will remain in effect until superseded or amended.

II. DEFINITIONS

In addition to all defined terms contained in the Contract, its Exhibits, and 36 CFR 51, the following definitions apply to this Operating Plan:

- (1) **Affirmative Acquisition.** Donating, buying, or purchasing preference of a product over a similar product because of certain characteristics or properties.
- (2) **Best Management Practices.** (BMPs) are policies and practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Contract. BMPs are expected to change from time to time as technology evolves with a goal of sustainability of the Concessioner's operations. Sustainability of operations refers to operations that have a restorative or net positive impact on the environment.
- (3) **Environmental Purchasing.** The affirmative acquisition of environmentally preferable products.
- (4) **Environmentally Preferable.** Products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operations, maintenance, or disposal of the product or service.
- (5) **Facility Operations (FO)** – Work activities performed on a recurring basis throughout the year which intends to meet routine, daily park operational needs and sustain authorized Visitor Service operations. Facility Operations is not Maintenance. Typical work performed under operations includes janitorial and custodial services, operation of mechanical equipment, grease trap cleaning, roof and gutter cleaning, snow removal, operation or purchase of utilities, (water, sewer, electricity), grounds-keeping, etc.

- (6) **Hazardous Chemical.** Any chemical that is a physical or health hazard, as regulated by U.S. Occupational Safety and Health Administration in 29 CFR 1910.1200.
- (7) **Hazardous Material.** A substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and has been designated as hazardous under section 5103 of Federal hazardous materials transportation law (49 USC 5103), as regulated by the US Department of Transportation in 49 CFR 171.
- (8) **Hazardous Substance.** Any hazardous waste, hazardous chemical or hazardous material.
- (9) **Hazardous Waste.** The definition of hazardous waste as regulated by the U.S. Environmental Protection Agency in 40 CFR 261.
- (10) **Incidental.** A spill or release of a hazardous substance that does not pose a significant safety or health hazard to employees in the immediate vicinity or to the employee cleaning it up, nor does it have the potential to become an emergency within a short time frame. Incidental releases are limited in quantity, exposure potential, or toxicity and present minor safety or health hazards to employees in the immediate work area or those assigned to clean them up. An incidental spill may be safely cleaned up by employees who are familiar with the hazards of the chemicals with which they are working.
- (11) **Non-incidental.** A spill or release that is not an incidental spill or release.
- (12) **Pollution Prevention.** "Source reduction," as defined in the Pollution Prevention Act of 1990, and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources; protection of natural resources by conservation.
- (13) **Post-consumer Material.** Material or finished product that has served its intended use and has been diverted or received from waste destined for disposal.
- (14) **Recycling.** The act of producing new products or materials from previously used and collected materials.
- (15) **Secondary Containment** refers to the provision of devices that will hold a spill or leak from the primary container in which the material was stored. This secondary containment may be a permanently installed feature such as a sunken floor in a storage building, a feature engineered into a storage unit (e.g., sills in a flammable storage cabinet) or a separate unit such as tub or pan placed under a container.
- (16) **Service Policy** means directives, policies, instructions and guidance regarding the National Park System and the National Park Service that are in writing and approved by the Secretary of Interior or a Department of Interior or National Park Service official to whom appropriate authority has been delegated, as such may be amended authority has been delegated, as such may be amended, supplemented or superseded throughout the term of the Contract. Service Policy is available upon request from the Service.
- (17) **Solid Waste** refers to discarded household and business items such as product packaging, grass clippings, furniture, clothing, bottles, food scraps, newspapers, appliances, paint, and batteries. It is more commonly referred to as trash, garbage, litter, or rubbish. The term "solid waste," as used in this Operating Plan, does not include sewage, septic sludge, a hazardous waste. Solid waste will be managed in accordance with Applicable Law including 40 CFR 243 and 36 CFR 6.

- (18) **Universal Waste.** The definition of universal waste as regulated by the US Environmental Protection Agency in 40 CFR 261.
- (19) **Waste Prevention.** Any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.
- (20) **Waste Reduction.** Preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

III. RESPONSIBILITIES

A. Concessioner

To achieve an effective and efficient working relationship between the Concessioner and the Service, the Concessioner will designate an on-site general manager who:

- (1) Has the authority and the managerial experience for operating the authorized Concessions Facilities and services within the Park;
- (2) Will employ a staff with the expertise and training to operate all services authorized under the Contract;
- (3) Has full authority to act as a liaison in all concession administrative and operational matters within the Park; and,
- (4) Has the responsibility for implementing the policies and directives of the Service.

B. Service

The Superintendent of the Park is the Park manager with responsibility for all Park and Area operations, including concession operations. The Superintendent carries out the policies and directives of the Service, including concession contract management. Directly, or through designated representatives, the Superintendent reviews, directs, and coordinates concessioner activities related to the Park and Area. This includes:

- (1) Evaluation of concessioner services and facilities;
- (2) Review and approval of rates charged for all commercial services;
- (3) Review and approval of construction and all improvements to facilities;
- (4) Delivery of a current Service staff list, as needed, to the Concessioner with all appropriate points of contact; and,
- (5) Review of the qualifications related to the general manager, prior to hiring.

IV. GENERAL OPERATING STANDARDS AND REQUIREMENTS

A. Schedule of Operation

The Concessioner will be open for business daily on a year-round basis from 9:00 AM to 7:00 PM, except for Thanksgiving Day, Christmas Day and New Years Day. The Service will make every effort to inform the Concessioner of any schedule change that it may initiate due to weather, natural disasters, repair of infrastructure or other reasons.

B. Rate Determination and Approval Process

- (1) *Rate Determination.* All rates and charges to the public by the Concessioner must comply with the provisions of Section 3(e) of the Contract, including (without limitation) Section 3(e)'s requirements regarding approval by the Service of the rates and charges set. The reasonableness and appropriateness of rates and charges under this Contract shall be determined, unless and until a different rate determination is specified by the Service, using the methodologies set out below. As used in this Operating Plan, each of the specified methodologies has the same meaning as that set out in the National Park Service Concession Management Rate Approval Guide (September 2002) as it may be amended, supplemented or superseded throughout the term of this Operating Plan. This guide may be requested from the Service.
- (a) The Merchandise Pricing Method will be used for grocery and convenience items. This rate approval method uses industry gross margins by product category obtained through a nationally recognized source, the National Association of Convenience Stores (NACS). Each year, the NACS publishes a State of the Industry (SOI) Annual Report that includes gross margin percentages by product category used to determine mark-up percentages. The use of this source ensures comparability with the private sector.
 - (b) The Competitive Market Declaration (CMD) rate method should be used for all merchandise items.
 - (c) The Comparability Rate Method should be used for video and DVD rentals.
- (2) *Request Submittal for Rate Determination and Approval Process.* Rate requests for Video and DVD rentals require support by established criteria and comparable data. The information to be included in the request is outlined in Service Policy.
- (3) *Rate Approval.*
- (a) Approval Timing. The Service will approve, disapprove or adjust rates. Requests for rate approvals should be submitted well in advance of their intended rate date, as major changes will require at a minimum 60 days for review and response by the Superintendent. Should special conditions require a quicker than normal response, the Concessioner will clearly explain these conditions in writing in the request. New rates will not be implemented until approved in writing by the Superintendent.
 - (b) Approved Rate Posting. The Concessioner will prominently post all rates for goods and services provided to the visiting public.
- (4) *Discounted Items.* If the Concessioner offers an item or service at less than optimum condition (because of unavailable amenities or condiments, or because of poor service or other conditions), item or service will be discounted. This should not be construed to condone shortages or "running out" of items on a regular basis and should be used only in unavoidable situations.

C. Purchasing

- (1) *Competitive Purchasing.* The Concessioner may purchase from a facility operated or owned by the Concessioner or a parent company, provided the product is comparable in quality and price.
- (2) *Discounts.* The Concessioner will take advantage of all available trade, cash and quantity discounts and rebates. Depending on the method of rate approval, the Concessioner will pass these savings through to the consumer.
- (3) *Environmental.* The Concessioner will purchase and use Environmentally Preferable products whenever available and feasible.

D. Evaluations

The Service and/or its representatives and the Concessioner shall separately inspect and monitor Concession services, facilities, and equipment with respect to Service Policy, applicable standards, authorized rates, safety, public health, impacts on cultural and natural resources, correction of operating and condition deficiencies, responsiveness to visitor comments and conformance with the Contract and all its Exhibits.

The Concessioner will meet with Service officials to prioritize and schedule the correction of deficiencies and the implementation of improvement programs resulting from these inspections. The Concessioner will be responsible for correction of deficiencies and abatement plans within dates assigned by the Service.

- (1) *Periodic Evaluations.* The Service will conduct both announced and unannounced periodic evaluations of Concession Facilities and activities to evaluate conformance to applicable standards. The location manager will be contacted at the time of facility evaluations so that a representative of the Concessioner may accompany the Park evaluator. The Service reserves the right to enter the Concession Facilities at any reasonable time for any evaluation or when otherwise deemed necessary.
- (2) *Health and Safety Inspections.*
 - (a) Concessioner Safety Inspections. The Concessioner will perform periodic interior and exterior safety inspections of all Concession Facilities in accordance with its documented Risk Management Program. The Concessioner will ensure employee compliance with health, fire, and safety code regulations as well as Service policies and guidelines.
 - (b) Service Safety Inspections. The Service may periodically conduct a comprehensive safety and occupational health evaluation of all operations and facilities in addition to the review of the Concessioner's Risk Management Program. Safety will also be a component of regular periodic evaluations.
- (3) *Fire Inspections.*
 - (a) Concessioner Responsibilities. The Concessioner will have a qualified professional perform interior and exterior fire inspections of all concession buildings within 30 days of initial occupancy and on an annual basis thereafter. Written records, verifying the completion of such inspections, will be maintained

by the Concessioner and available to the Service upon request. Concessioner will conduct routine fire drills of buildings as required by its Risk Management Program. Inspections will be performed in accordance with Director's Order #50B and Director's Order #58 (and their successor orders).

- (b) Service Responsibilities. The Service is the Authority Having Jurisdiction (AHJ) for all structural fire and life safety issues on federal lands administered by the National Park Service.

The Service will conduct fire safety inspections at its discretion over the course of the contract term. The location manager will be contacted at the time of facility inspections so that a representative of the Concessioner may accompany the Park evaluator.

(4) Public Health Inspections.

- (a) The Service Sanitarian will conduct announced and unannounced periodic evaluations of the Concessioner's food and beverage operations, grocery and other food sales. In addition, since operations are located within an area of proprietary jurisdiction, Mariposa County Public Health may also inspect Concession Facilities.
- (b) The Concessioner and its employees will conform to all U. S. Public Health Food Code requirements. These requirements include, but are not limited to pre-employment interviews, reporting requirements, supervision, application Hazard Analysis and Critical Control Point (HACCP) principles, food handling, and dishwashing.
- (c) Human illness reports will be sent to the Park Sanitarian within twenty-four (24) hours of a potential food borne illness report. See the Attachment to this Exhibit for the *Yosemite Questionnaire for Illness Case Reports* form to be used by the Concessioner.

(5) Visitor Comments. The Concessioner will make Service-approved comment cards available to visitors in order to measure service and quality standards, product mix, pricing, and overall Park experience. It will be the responsibility of the Concessioner to ensure that an adequate inventory of comment cards is available at appropriate locations within its facility at all times.

- (a) The Concessioner will investigate and respond to all visitor complaints regarding its services. Visitor comments that allege misconduct by concession or NPS employees, pertain to the safety of visitors or Service employees, or concern the safety of Park resources will be provided to the Service upon receipt.
- (b) The Concessioner will forward to the Superintendent twice yearly all comments and/or complaints received on comment cards or any other form of documentation. Individual comments must be provided upon request.
- (c) The Service will forward to the Concessioner any comments and/or complaints received regarding the Concession Facilities or services. The Concessioner will investigate and make an initial response to any complaints within 48 hours. The

Concessioner will provide a copy of responses to the Superintendent, and a copy of any Service responses will be forwarded to the Concessioner.

- (6) *Environmental Audit.* The Service has established a Concession Environmental Audit System to facilitate Concessioner compliance with all applicable environmental requirements, implementation of best management practices, promotion of sound environmental practices, and awareness and accountability for environmental management. The scope of the audit includes applicable federal, state and local laws and regulations, applicable Department of the Interior and Service policies and regulations, and other criteria as contained within the current NPS Environmental Audit Program Operating Guide and the Concession Environmental Audit System ("CEAS") Guide.
- (7) *Other Evaluation Criteria.* The Concessioner may also be evaluated in terms of compliance with permit requirements, such as timely submission of annual financial report, timely submission of proof of general liability, automobile, and workers compensation insurance.

E. General Policies

(1) Facilities Use

- (a) Concession Facilities may not be used for activities or services that do not directly and exclusively support contractual services authorized by the Contract without prior written permission from the Service.
 - b) *Smoking Policy.* Concession Facilities must comply with Service Policy and State laws. Smoking is prohibited in all concession public areas and any other area within Concession buildings so designated by "No Smoking" signs.
 - (c) *Compliance with Americans with Disabilities Act (ADA).* Facilities that are either newly constructed or are rehabilitated will meet the ADA Accessibility Guidelines (ADAAG). (Information related to ADAAG can be found at <http://www.accessboard.gov/adaag/html/adaag.htm>). Park planning will identify new construction and anticipated rehabilitation.
- (2) *Lost and Found.* The Concessioner will establish and provide an effective program for handling lost and found or unattended property in the Concession Facilities. This program will include property that may have been abandoned by Concession employees. Items lost or found within the Concession Facilities will be processed as follows:
- (a) Found items will be tagged at the facility where they are found or turned in by completing a lost and found report, which identifies the item, date, location and name of finder.
 - (b) A lost and found report will be completed indicating name, address and telephone number of the person reporting a lost item, description of the item, date and location of loss, and the name of the person taking the report.
 - (c) The Concessioner will hold all found property for 60 days. Efforts will be made to return found items to the owner within the 60-day period.
 - (d) No items will be released without claimant providing proper identification of the item, name, address, and signature of receipt.

- (e) All unclaimed items will be sent to the Service where usable items will be donated to a charitable non-profit organization and items of little or no value may be destroyed. Disposition of items will be noted on the lost and found report.
- (f) Lost and found reports will be retained by the Concessioner for 3 years.
- (g) For items found outside the Concession Facilities, finders shall be instructed to contact the Service Lost and Found Office at 209-379-1001 to be further processed by the Park.

(3) Vehicles

- (a) Licensing, Insurance, Maintenance and Registration. All vehicular equipment used by the Concessioner and its employees used in performing service under the Contract, will be properly registered, licensed, insured, and maintained in accordance with federal and state law and regulations.
- (b) Parking. The Concessioner will ensure no maintenance of vehicular equipment may occur within the Area. Parking of vehicles by the public and/or the Concessioner and its employees occurs only in designated locations approved by the Service. Egress in or out of the designated parking locations will be maintained at all times.
- (c) Abandoned Vehicles. The Concessioner will notify the Service of abandoned vehicles within its Concession Facilities, which may include Concessioner employee vehicles. Concessioner employee vehicles will be towed at the expense of the owner, or if the owner cannot be located, at the expense of the Concessioner. The Concessioner will take necessary steps to remove abandoned property in a timely manner.

(4) Interactions with Wildlife.

- (a) The feeding of wildlife within a National Park Service area is not permitted. The Concessioner will not encourage the feeding of wildlife at any facility within its Concessions Facilities by displaying food in such a manner that may imply approval of the feeding of wildlife. This includes the placing of birdfeeders. Waste and garbage disposal containers will be located at the entrance to the Concession Facilities. Food storage and waste/garbage disposal facilities will be bear resistant and animal -proof. Preventive measures will be in place for Hantavirus.
- (b) The Concessioner will keep the outside area clean and free of litter and food spills to reduce smells that might attract wildlife.
- (c) The Concessioner and their employees will notify the Wildlife Management Office of all bear incidents immediately and sightings as soon as possible.
- (d) Appropriate signing that discourages customers from feeding animals will be posted.

F. Staffing and Employment

(1) Concessioner Hiring

- (a) The Concessioner will hire a sufficient number of employees to ensure at least satisfactory services during the year.
- (b) The Concessioner will attempt to offer its employees a full workweek whenever possible. Prior to employment, the Concessioner will inform employees of the possibility that less-than-full-time employment may occur during slow periods. All applicable requirements of the federal and state labor laws and regulations will be met.
- (c) The Concessioner will establish hiring policies that will include appropriate background reviews of applicants for employment. The Concessioner will not hire any person known to have an outstanding warrant for arrest and will make reasonable efforts to secure this information prior to hiring new employees.
- (d) The Concessioner shall formally inform employees and potential employees that any individuals required to register with the county sheriff's office in accordance with California Health and Safety Code 11590 (drug offenders) and California Penal Code 290 (sex offenders) must register with the Chief Park Ranger Office.
- (e) The Concessioner will employ at least one bilingual (English/Spanish) employee.

(2) Employee Housing

- (a) No government housing is available to the Concessioner under this contract. The Concessioner is encouraged to secure housing for its employees whenever possible to help achieve a stable workforce.

(3) Employee/Staffing Practices

- (a) All employees dealing with the general public shall wear uniforms or standardized clothing with their own personal nametag. Employees will project a hospitable, friendly, helpful, positive attitude, be capable and willing to answer visitors' questions, and provide visitor assistance. The Concessioner shall ensure consistent application of this practice.

(4) Service Employees and Families

Federal law prohibits government employees from making recommendations, decisions, or approvals relating to applications, contracts, controversies, or other matters in which the employee or the employee's spouse or minor child has a financial interest. Park employees may not make decisions, approvals, or recommendations related to concession activities when their spouse or dependent child is employed by a Concessioner in that particular park. For example, the spouse or dependent child of the Superintendent, Deputy Superintendent, concession staff, environmental manager, Safety Officer, or Park Sanitarian may not be employed by a Concessioner in the specific park in which the NPS employee works. The Concessioner will not employ in any status any other Park employee, his/her spouse, or minor children without the consent of the Superintendent.

(5) *Training Program.*

- (a) The Concessioner will provide employee orientation and training and will inform employees of park regulations and requirements that affect their employment and activities while working in the Area. Additional orientation will be conducted by the Concessioner with Service participation as appropriate.
- (b) *Food Safety Certification.* The Concessioner will have at least one person on duty and in charge that is certified by a food protection manager certification program as mandated by the state or described in the U. S. Public Health Service, Food and Drug Administration Food Code. Subject to Service approval, food handlers will have completed appropriate public health and food service training and have current, applicable certifications.
- (c) The Concessioner will provide adequate, applicable training (hospitality, environmental, etc.) to each employee prior to job assignments and working with the public.
- (d) The Concessioner will provide adequate, applicable training (hospitality, environmental, etc.) to each employee prior to job assignments and working with the public.
- (e) An employee handbook which will specifically identify the policies and regulations of the Concessioner and the Service will be developed and provided to the Service for review at least 30 days prior to distribution to employees to assure consistency with all applicable Service Policies. When updated, changes must be reviewed by the Service.

V. RISK MANAGEMENT PROGRAM

A. Documented Risk Management Program

The Concessioner will develop, maintain, and implement a documented safety program ("Risk Management Program"). An initial submittal and request of approval of this plan will be made to the Superintendent within one hundred twenty (120) days of the execution of this Contract. This plan will be submitted annually to the Service for review and approval by November 30 of the preceding year. The program will include, at a minimum, the following components:

- (1) Administration
- (2) Inspections
- (3) Deficiency Classification and Hazards Abatement Schedules
- (4) Accident Reporting and Investigation
- (5) Public Safety Awareness
- (6) Training
- (7) Emergency Procedures

B. Emergency Response

- (1) *General.* The Concessioner will provide plans and procedures, equipment and training to employees to effectively respond to releases of hazardous substances for the purpose of stopping the release in accordance with Applicable Laws.

(2) *National Park Service Plans.* The Concessioner will be familiar with the Park's Emergency Response Plan. A copy will be provided upon request.

(3) *Reporting.*

- (a) The Concessioner will notify the Park immediately when a release of a hazardous substance occurs. The Concessioner will comply with all applicable reporting requirements of Applicable Laws. Proper safety actions must be implemented immediately in accordance with the Concessioner's emergency response plans and procedures.
- (b) The Concessioner will submit all Emergency Planning and Community Right-to-Know (EPCRA) reports required under Applicable Laws to the Park in accordance with Section 6d of the Contract.
- (c) The Concessioner will also submit to the Park, upon request, applicable hazardous materials storage and toxic release information necessary for Park EPCRA reporting.

C. Hazard Communication

The Concessioner will develop, document, and implement a Hazard Communication Program in accordance with OSHA regulation 29 CFR 1910.1200. The Hazard Communication Program will address the written program, container labeling, material safety data sheets, and training.

D. Respiratory Protection

The Concessioner will develop, document, and implement a Respiratory Protection Program in accordance with OSHA regulation 29 CFR 1910.134. The Respiratory Protection Program will address voluntary and required respirator use and all respirators, including filtering face pieces (e.g., dust masks).

VI. ENVIRONMENTAL MANAGEMENT PROGRAM

The Concessioner will prepare an Environmental Management Program ("EMP") in accordance with Section 6 of the Contract and will update the EMP annually.

A. Environmental Purchasing

Where feasible and appropriate, the Concessioner shall implement a green procurement program (e.g., purchase and use of environmentally preferable products and equipment that contain the least hazardous materials and are less toxic, are the most biodegradable, are made with recycled content, have less packaging, are less polluting, energy efficient, etc.). This program should consider all materials used in Concessioner operations (e.g., maintenance, janitorial, vehicles and equipment) and retail sales.

B. Integrated Pest Management

- (1) An Integrated Pest Management Program will be prepared by the Concessioner. (See Section IIV, Facility Operations, Paragraph G, Pest Management, below.) Chemicals to control plant and insect pests will be used as a last resort and strictly regulated to minimize such uses.

- (a) The Concessioner will consult with the Service on the development and implementation of this program.

C. Hazardous Materials Management

(1) *Reduction.* The Concessioner will implement hazardous material reduction to minimize and eventually eliminate use of hazardous materials and chemicals in its operation. The Concessioner will be familiar with its obligations under Section 6 of the Contract.

(2) *Inventory.* The Concessioner will submit to the Park, at least annually, a list of hazardous chemicals identified by the Occupational Safety and Health Administration (OSHA) used or stored in the Park by the Concessioner. Material Safety Data Sheets will be submitted for each of the hazardous chemicals identified and listed.

(3) *Standard Operating Procedures.* The Concessioner will develop and implement an NPS-approved documented standard operating procedure for the handling and storage of hazardous substances by location.

(4) *Spill Prevention.* The Concessioner's Environmental Management Program (EMP) will include its approach to stopping, containing and cleaning up hazardous substance spills and releases, whether incidental or non-incidental.

(5) *Spill Notification.* The Concessioner will notify the Service Dispatch Center without delay when a release of hazardous or non-hazardous chemical or biological product occurs. In addition, the Concessioner will comply with all applicable reporting requirements of Applicable Laws. Proper corrective, cleanup, and safety actions must be implemented immediately.

(6) *Asbestos.* The Concessioner is responsible for maintaining all health and safety standards required to operate and work in the presence of asbestos in all assigned buildings and areas. Any repair or replacement of building features containing asbestos will be performed with the written approval of the Superintendent.

(7) *Refrigerants.* The Concessioner will use EPA-certified technicians to service air conditioning equipment and will adequately document this maintenance activity to be performed in accordance with applicable Federal and State code and regulations.

D. Waste Management

(1) *Inventory.* The Concessioner will submit to the Park, by October 1 of each year, a list of waste streams generated by the Concessioner in the Area, including mixed solid waste, hazardous waste and any other waste that is regulated.

(2) *Hazardous and Miscellaneous Maintenance Wastes.* The Concessioner shall develop and implement documented procedures for managing hazardous waste and other wastes containing hazardous substances. For example, used oil should be recycled. Waste antifreeze, fluorescent tubes, batteries of all types and any lab chemicals must be removed from the Area and the Park and disposed or recycled in accordance with applicable Federal regulation and policy and appropriate State and County codes and regulations.

E. Recycling and Conservation

(1) *Recycling Program.* The Concessioner will develop, promote and implement a recycling program that fully supports the efforts of the Service, at the Concessioners expense. Recycling containers must be bear resistant. Interim storage of all recyclable materials must be indoors to prevent access by bears and vermin. Products to be recycled include, but are not limited to, paper, newsprint, cardboard, bimetals, fluorescent tubes, plastics, aluminum, glass, waste oil, waste fuel, antifreeze, and batteries.

(2) *Use of Recycled Products.* The Concessioner will implement a source reduction program designed to minimize its use of disposable products in its operations. Reusable and recyclable products are preferred over single-service items. Polystyrene and plastics will be used as little as possible and then only polystyrene not containing chlorofluorocarbons may be used. Where disposable products are needed, products will be used which have the least impact on the environment. Use of post-consumer recycled products is encouraged whenever possible. The Concessioner will purchase and incorporate environmentally preferred products or services for use and for sale.

(3) *Water and Energy Conservation.* All facilities operated by the Concessioner will be evaluated for meeting Service water and energy conservation goals. Any personal property of the Concessioner will be replaced if necessary at the expense of the Concessioner to attain these resource conservation goals. As new technologies are developed, the Concessioner will explore the possibility of integrating them into existing operations where there is potential for increased efficiency, reduced water or energy consumption, or reduced impacts on the environment.

VII. FACILITY OPERATIONS

F. General

The Concessioner will provide all Facility Operations (as defined in Section II in this Operating Plan), including but not limited to, those identified herein. Where practical, the Concessioner will use Environmentally Preferable products and practices that enhance sustainable operations.

G. Utilities

The Concessioner is responsible for all utilities identified herein and will contract with independent supplier(s) to provide year-around telephone service, data communication networks and propane. Any modification to Concession assigned utilities will require the approval of the Superintendent. The Concessioner will operate assigned utilities in accordance with the following:

(1) *Electrical.* The Concessioner will operate all electric distribution systems and components assigned including all fixtures of basic utility and any personal property connected thereto in accordance with the most recent National Electric Code. Primary electrical energy is furnished by Pacific Gas & Electric and delivered to the Concessioner through electric meters located at each building. The Concessioner is entirely responsible for distribution of electricity after it passes through meters.

(a) *Electric Service Expenses.* The Concessioner will pay for all electricity.

- (2) *Water.* The Concessioner will operate all water distribution systems and components assigned including all fixtures of basic utility and any personal property connected thereto in accordance with the public health requirements of the Service. Water is furnished by the Service and delivered to the Concessioner through water meters. The Concessioner is entirely responsible for distribution of water after it passes through meters.
- (a) *Water Service Expenses.* The Concessioner will pay the Service for all water furnished to the Concessioner through water meters operated and maintained by the Service. Invoices will be delivered to the Concessioner monthly for payment in accordance with Service terms and conditions.
 - (b) The Concessioner shall install and operate at all times effective back flow prevention devices.
 - (c) The Concessioner agrees to install water conserving fixtures approved by the Service.
- (3) *Wastewater.* Wastewater service connections (pipelines) extend underground from each building to a point of connection where service connection piping either extends beyond the Concessions Facilities area, at which point the responsibility of the Concessioner ends, or enters a Service maintained wastewater collection manhole or pipeline as identified by the Service. Wastewater collection piping and appurtenances are included as assigned Concession Facilities. All fixtures of basic utility and any personal property will be connected to wastewater collection components in accordance with the public health requirements of the Service. Once transmitted to Service operated wastewater transmission facilities, treatment is furnished by the Service. The Concessioner is entirely responsible for transmission of wastewater within the Concessioner's Concessions Facilities in accordance with State and Service regulations.
- (a) *Wastewater collection and treatment expenses.* The expense of wastewater collection and treatment is measured in accordance with industry standard by the quantity of water delivered to the Concessioner through water meters. The Concessioner will pay the Service for wastewater collection and treatment using this method of measurement. Invoices will be delivered to the Concessioner monthly for payment in accordance with Service terms and conditions.
 - (b) *Damage or any release occurring beyond the Concession Facilities, including discharged grease that results from actions of the Concessioner's employees or its subcontractors will be corrected at Concessioner expense.*
- (5) *Utility Costs.* The Service staff will conduct periodic reviews of the operating costs for utility systems and services and the Concessioner will be notified in writing of the rates for the upcoming year 60 days in advance of implementation.

H. Exterior and Interior Lighting

The Concessioner is responsible for ensuring that all exterior and interior luminary design and installation within its Concessions Facilities is performed in accordance with

the most recent Park lighting standards. All artificial light will be evaluated for meeting park resource conservation and management goals. All exterior and interior luminaries must be shielded to avoid light trespass to protect the night sky resource. The Service will approve new interior and exterior lighting. Luminaries that are the personal property of the Concessioner will be replaced if necessary at the expense of the Concessioner to attain park lighting standards and energy conservation goals.

I. Signs

The Concessioner is responsible for the installation, maintenance, and replacement of all exterior and interior signs relating to its operations and services within its Concession Facilities. Examples of this responsibility are signs identifying the location of functions (when attached to Concession Facilities, signs identifying operating services and hours, and signs identifying the Concessioner's rules or policies.

(1) *Design Approval.* The Concessioner is responsible for ensuring that its signs are compatible and consistent with Service sign standards as determined by the Superintendent. All new sign installations shall be approved in advance by the Superintendent. No handwritten or typed signs will be permitted within assigned areas unless the Service approves exceptions. Signs must be appropriately located, accurate, attractive, and well maintained.

(2) *Permanent Sign Design.* Signs of a permanent nature shall be prepared in a professional manner, appropriate for the purpose they serve, and consistent with Service guidelines, including but not limited to, Directors Order 52C, Park Signs.

J. Solid Waste

The Concessioner will be responsible for the collection of all solid waste including any debris or tree branches and for securing a private contract for the transportation and disposal of solid waste in accordance with applicable County and State regulatory requirements. The Concession Facilities will be kept free of litter, garbage, materials stored for extended periods, and abandoned equipment, including vehicles. The Concessioner will be responsible for keeping the Concession Facilities free and clear of safety hazards (broken glass, sharp objects, etc.) at all times.

The Concessioner will provide adequate garbage cans and dumpsters. Garbage cans and dumpsters must be bear resistant, waterproof, vermin-proof, painted in approved colors and covered with working lids. All such receptacles will be kept clean, well maintained and serviceable.

K. Grounds and Landscaping

The Concessioner is responsible for the landscape and grounds within the Concession Facilities. A grounds and landscape management plan will be prepared by the Concessioner for Service approval and updated as required. The Concessioner will conduct its business and daily activities in such a manner as to minimize impacts to the natural scene. This will involve protecting native vegetation and controlling erosion. The Concessioner will observe standard landscape watering conservation practices. The Concessioner is responsible for the removal and disposal of debris and hazards from grounds, roads, parking areas, trails, and walkways within the Concession Facilities.

- (1) *Snow Removal.* The Concessioner is responsible for all snow removal within Concession Facilities including the removal of snow from parking areas, porches, walkways, and, if necessary, roofs. Snow and ice will be removed from all areas of pedestrian access including paved areas and porches to the extent where pedestrian travel is safe for winter conditions. Ice buildup on walkways will be sanded or removed for safety. Any chemical used for removing ice must be approved in advance by the Service. Special requests by the Concessioner for snow removal by the Service will be made through the Division of Business and Revenue Management.
- (2) *Hazard Tree Removal.* The Concessioner is responsible for removing trees after receiving Service approval. Approval will be granted in accordance with the established Park policy for hazard tree removal. The Concessioner is not authorized to remove hazard trees from its assigned area without the specific approval of the Superintendent or his designated representative, unless there is an imminent hazard.
- (3) *Exotic Plants and Species.* The Concessioner is prohibited from bringing exotic plants and species into the Park.

L. Pest Management

The Concessioner, in consultation with the Service, will develop an Integrated Pest Management Program, (IPMP) to be implemented by the Concessioner that will define the nature and frequency of treatment, approved chemical lists, etc. The IPMP will be designed to prevent concession facility damage using Service approved materials, chemicals and methods. (See Section I: Environmental Management Program (EMP), paragraph 2 above.) Application of any herbicide or pesticide, or engaging in any pest control or non-native species activity in buildings or in grounds/landscape materials will be in accordance with the IPMP. As such, the Concessioner is required to submit to the Superintendent on or before January 31 of each year a Pesticide Request Form requesting approval of anticipated pesticide use for the following year and a Pesticide Use Log which tracks the pesticide use for the current year.

- (1) *Concession Facility Inspection.* The Concessioner will perform an annual inspection of the interior spaces and exterior of all Concession Facilities retaining a certified and licensed pest control contractor. The Service will be notified 10 business days in advance of the scheduled inspection to be present during the inspection. The initial inspection will be performed within 60 days of awarding this Contract. The inspection report will be submitted to the Superintendent within 10 days after inspection for evaluation and consultation.
- (2) *Concession Facility Pest Management.* The Concessioner is responsible for preventing Concession Facility damage by pests. The IPMP will identify specific facility conditions and/or condition deficiencies and identify methods and treatments to prevent facility damage.

VIII. PROTECTION AND SECURITY

All suspected and known criminal violations and all medical emergencies will be reported to the Park Communication Center at 209-379-1992 or 911 (or 9-911 depending on location within the Park).

A. Concessioner Responsibilities

- (1) At a minimum, the Concessioner is required to have first aid kits in appropriate locations.
- (2) No intrusion alarms may be installed without prior written approval of the Service.
- (3) The Concessioner is encouraged to allow employees to attend emergency medical training, including cardio pulmonary resuscitation (CPR), automatic external defibrillator (AED) and First Aid courses.
- (4) The Concessioner will train all concession employees in proper emergency reporting procedures and how to provide essential information, e.g. a call back number at their location.
- (5) The Concessioner has the responsibility to ensure that all facilities within its assigned area meet all Applicable Laws and that fire detection and appropriate suppression equipment is installed, operated, and maintained in accordance with applicable National Fire Protection Association (NFPA) standards and NPS policies and guidelines, including but not limited to Director's Order 50 and Director's Order 58.
- (6) The Concessioner will post a fire evacuation plan in readily accessible locations on each story of the retail facility.
- (7) Fire prevention, protection, and suppression will be primary considerations at all facilities. Structural fires will be suppressed to prevent the loss of human life and limit damage to real property and to cultural and natural resources.

B. Service Responsibilities

- (1) Under its proprietary jurisdiction in El Portal, the National Park Service may enforce property based laws and regulations, including for example the regulations published in Title 36 of the Code of Federal Regulations. All non-property related crimes are addressed under State law by State officers. In addition, the Park has memorandum of understandings with surrounding law enforcement agencies that describe law enforcement and mutual aid relationships.
- (2) The Service Communication Center will dispatch rangers and emergency personnel. The Concessioner must call 911 for emergency service.

IX. PUBLIC RELATIONS**A. Required Notices**

The Concessioner will prominently post the following:

"This service is operated by Kari & Sons, a Concessioner under contract with the U.S. Government and administered by the National Park Service. The Concessioner is responsible for conducting these operations in a satisfactory manner. Prices are approved by the National Park Service.

Please address comments to: Superintendent
P. O. Box 577
Yosemite National Park
Yosemite, CA 95389"

B. Public Statements

The Concessioner will forward all media inquiries concerning operations within the Park to the Park's Media Relations Office.

C. Advertisements and Promotional Material

(1) Promotional Material.

- (a) Approval. The Superintendent must approve all promotional material, including catalog sales, advertisements, and other forms of such visitor information in all formats (electronic media, audio, video, radio, television, and computer web sites) prior to any use including publication, distribution, and broadcast, etc. The Concessioner will contact the Concessions Management Office well in advance to establish specific time frames for review of new projects or major changes to existing materials. The Superintendent may require the Concessioner to remove from circulation any unapproved promotional material.
- (b) Park Publications. The Park's newspaper, *Yosemite Today*, includes information on concessioner-operated facilities within the Park.

(2) Statements.

- (a) Authorization. Advertisements must include a statement that the National Park Service and the Department of the Interior authorize the Concessioner to serve the public in Yosemite National Park.
- (b) Equal Opportunity. Advertisements for employment must state that the company is an equal opportunity employer.

(3) Internet Sales.

Sales via the Internet are gross receipts that are subject to fees and must be reported on the Annual Financial Report. No Internet sales will be authorized under this Contract.

X. VOLUNTEERS IN PARKS (VIP) PROGRAM

The Concessioner may allow its employees to participate in the Park's Volunteers in Parks (VIP) program. More information on the Service VIP program can be found at <http://www.nps.gov/volunteer>.

XI. SPECIFIC OPERATING STANDARDS AND REQUIREMENTS

The Concessioner will provide services in a consistent, environmentally sensitive, quality manner. Standards provided by Service Policies are Service minimums. The Concessioner must make

every effort to exceed these standards. The Concessioner must monitor its operations to ensure it meets quality standards.

A. Grocery / General Merchandise Store.

- (1) *General.* The Concessioner will provide a wide range, selection, and pricing for grocery and convenience items appropriate for the visiting public and to meet the needs and general preferences of the local community.
- (2) *Merchandise.* This operation will comply with NPS Management Policies, Section 10.2.4.5 (Merchandise). This document may be found at <http://www.nps.gov/policy/MP2006.pdf>, or the Concessioner may contact the Concessions Management Office for further information.

Facility and merchandise displays should be clean, free of clutter, and organized in a safe and accessible manner.

Additional guidelines are found in the Concession Services Plan which is available upon request from the Service.

(3) Items Available for Sale and Rent.

- (a) Grocery. The Concessioner will provide grocery items including staple food products, fresh produce, organic produce where possible, seasonal specialties when possible, dairy and packaged grab and go products, meats, baby food and products, dry foods, candy, nuts, and other snack items, bakery goods, frozen foods, beverages (non-alcohol, beer, wine, etc.), off-sale distilled spirits, ice, and non-edible grocery items including laundry, dish and household care, paper/plastic/foil products, health and beauty care, and pet care.
- (b) General Merchandise. The Concessioner will carry a selection of limited general merchandise including household hardware/tools/house wares, picnic and camper supplies, limited clothing, school and office supplies, toys, batteries, film/photo, greeting cards, and postcards,. The intent of this visitor service is to provide a limited number, but broad selection of general merchandise items to meet the needs of the local community and visiting public.
- (c) Sporting Goods and Recreational Equipment. The Concessioner will carry a limited selection of sporting goods, recreational equipment, and clothing to meet the needs of visitors who may have forgotten items or need emergency replacements. The intent of this visitor service is to provide an appropriate, but limited, selection of items which represents a range of price and quality levels.
- (d) Firewood. The State of California has prohibited the transport of firewood originating in coastal and Bay-area counties, i.e. Monterey County to the Oregon border. Firewood should be seasoned and relatively dry, so that it burns cleanly and does not produce large amounts of smoke. The Concessioner will acquire fully cured firewood from outside the Park for sale in its facilities.
- (e) Gifts and Souvenirs. Souvenir, novelty, gift, curio, handcraft items or other similar merchandise are not authorized for sale.

(f) Movie Rentals. The Concessioner may rent video and DVD movies.

B. Alcohol Sales.

General. Any sale by Concessioner of alcoholic, spirituous, vinous, or fermented liquor containing more than one percent of alcohol by weight (collectively "Alcohol") shall conform to all Applicable Laws. The Area is held by the Federal Government as a proprietorial interest only (with no legislative jurisdiction) and the State of California retains the entire jurisdiction over the area that the State would have if a private individual rather than the United States owned the land. Concessioner shall comply with all State and county laws and regulations regarding the possession and sale of Alcohol, including without limitation those of the California Alcoholic Beverage Control Act and implementing regulations.

C. Vending

- (1) *General.* The Concessioner may provide newspaper vending machines. Other machines such as hot and cold beverages, snacks, and ice may be provided with prior approval of the Service. Machines will be conveniently located, and of a design and color that complement the aesthetics of the building(s) and surroundings. The Concessioner must obtain the Service's approval of all machine locations, quantity, and exterior aesthetics before they are installed.
- (2) *Standards.* All machines will be clean, properly stocked, and in good working condition. Signing on the machine may relate to Park interpretive themes or will be generic in nature. Brand information may only be visible when at the machine. The machines may be illuminated, but will not contribute to night light pollution.
- (3) *Out-of-service.* Machines that are out of service will be repaired or replaced within a reasonable timeframe. Out of service signs will be appropriately located, accurate, attractive and well maintained.
- (4) *Cigarettes.* The Concessioner may not offer cigarette vending machines.

D. Outdoor Tables and Seating

The Concessioner may provide tables and seating at the front of the store. The Concessioner will encourage its customers to bus their own tables, but will routinely dispose of any food and food trash left out during operating hours and after closing time so that wildlife will not be attracted to the outdoor seating area.

XII. REPORTING REQUIREMENTS

A. Park Reports

Annual Performance Evaluation: The Concessioner will receive an annual performance evaluation by March 1 for the preceding calendar year. The Superintendent or his/her representative(s) are available to meet with the Concessioner to discuss the annual evaluation, which includes contractual, operational, public health, environmental, and safety components.

B. Concessioner

The Concessioner will allow the Service to inspect supporting documentation for all operational reports upon request.

(1) General

- (a) Incident Reports. The Concessioner will immediately report to the Service Communication Center any fatalities or visitor-related incidents which could result in a tort claim to the United States, property damage over \$500, any employee or visitor injuries requiring more than minor first aid treatment, any fire, all motor vehicle accidents, any incident that affects the park's resources, or any known or suspected violations of the law.
- (b) Human Illness Reporting. Any suspected outbreak of human illness is to be reported promptly to the Park Sanitarian. A suspected outbreak of human illness is two or more persons with symptoms that could be associated with contaminated water or food sources or other adverse environmental conditions.
- (c) Survey Response Data. All customer satisfaction data collected by third parties for the Concessioner will be provided to the Superintendent in summary form within 30 days of receipt. The Superintendent reserves the right to review supplemental information that supports the summary provided.
- (d) Environmental Report. The Concessioner will issue an annual environmental report that contains any violations, and addresses the current status of goals, policies, and procedures included in the EMP. Reports will be submitted as outlined in Section III. I., Environmental Management Program, above.

(2) Monthly Operational Performance Reports

The Concessioner will maintain a management information system to document visitor use patterns and impacts. A monthly operational performance report will be provided to the Service annually within 30 days of fiscal year end.

- (a) Financial and Operational Statistics. The Concessioner will provide documentation to the Superintendent demonstrating proof of required franchise fee payments as described in Section 10 of the Contract within 15 days of remittance.
- (b) Visitor Comments. The Concessioner will provide tabulated summaries of all visitor comments 15 days after the month end and a year-to-date tabulation due January 15 each year.
- (3) *Concessioner Financial Reporting.* The annual financial report (AFR) shall be submitted annually as soon as possible but not later than one hundred twenty (120) days after the last day of its fiscal year as required in the Contract.
- (4) *Asset Data.* Additional reporting as outlined in the Maintenance Plan, Exhibit E, Paragraphs 3d) and 3e).

C. Summary of Initial and Recurring Due Dates

The following table summarizes the preceding reporting requirements and details other reports, plans, payments, and inspections that will be the responsibility of the Concessioner.

SUMMARY INITIAL AND RECURRING DUE DATES			
TITLE	SCHEDULE	DUE DATE	REFERENCE
Initial Requirements			
Balance Sheet	Initial	Within 90 days of Contract Execution	Contract, Sec. 13(c)
Environmental Management Plan	Initial	Within 60 days of Contract Execution	Contract, Sec. 6 (b)(1)
Risk Management Plan	Initial/ Annually	Within 120 days of Contract Execution; Updates due by November 30 annually	Operating Plan, Sec. 5 A
Annual			
Employee Handbook	Annually	Provided to Service 30 days prior to release; updated copies provided annually by April 1	Operating Plan, Sec. 4F (5)(c)
Annual Financial Report	Annually	Not later than 120 days after the last day of the Concessioner's fiscal year	Contract, Sec. 13 (b)(1) Operating Plan, Sec. 12 B(3)
Concessioner Operation Reports (excluding Management Listing)	Annually	Monthly reports due not later than 30 days after the last day of the Concessioner's fiscal year	Operating Plan, Sec. 12B(2)
Maintenance Data	Semi-Annually	Maintenance Activity and Facility Operations Costs due Semi-annually	Maintenance Plan Sec.3 B(3)
Monthly			
Franchise Fee	Monthly	By the 15th day of the following month of each month of operation	Contract Sec. 10(b)(1) Operating Plan, Sec. 12 B(2)(a)
Miscellaneous Reports and Data	As required	The Director, from time to time, may require the Concessioner to submit other reports and data regarding its performance under the Contract or otherwise, including, but not limited to, operational information.	Contract, Sec. 14(c)

Effective: July 21, 2009

BY

James F. Hummelt
Superintendent
Yosemite National Park